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Thirty-seventh session
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Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Modern Advocacy, Humanitarian, Social and Rehabilitation Association, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

[28 January 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.18-02114(E)

1802114

Please recycle

The Evil in Impunity and Judicial Corruption that Destroys Human Rights Values and State Responsibility

Introduction

As the world strives to equate positions, opinions and values of all through the Sustainable Development Goals for a comfortable place for both the weak and strong, the meek and assertive and the poor and rich, evil ideological and circumstantial opponents keep manoeuvring every illustrious opportunity towards dismay and destruction. One of the most horrible thoughts to engender the human mind in modern times is "what if they were no Human Rights" yet only the meek, the weak and the poor seem to have value for this. Instinctively, humanity seems sick when measured in terms of the strong, the assertive and the rich bestowed with power and responsibility to uphold values that mean very little to them. The Declaration on the Rights to Development1 is categorical on national duties to formulate development policies that aim at the constant improvement of the well-being of the entire population and of all individuals through active, free and meaningful participation in development and in the fair distribution of the outcome benefits. However, across countless other conventions and resolutions to improve on value and respect for such well-being rights of all human persons especially the most vulnerable, States and their representatives borne with such responsibility have paradoxically increased the burden. From major instances of capital corruption down to roadside bribery and from severe war crimes and torture down to judicial manoeuvring exploits for widow's mites, under impunity, we continue to perceive how persons in power manipulate the rule of law for personal gains meanwhile inflicting untold suffering to the vulnerable masses, that is how bad the predicament seems, what a shame!

Corporate Responsibility and Zero Tolerance on Human Rights Violations

All human rights are universal, indivisible, interdependent therefore must be treated in a fair and equal manner, on the same footing and with the same emphasis as well as the general obligation to respect, promote and protect all human rights and fundamental freedoms at the national and international level and conducted without conditions attached, with primary responsibility on States to protect against all violations or abuses within their territory and/or jurisdiction by third parties, including transnational corporations (A/HRC/RES/26/9).

Notably, the current process of institutionalizing an international binding agreement over transnational corporations is to put an end to impunity in cases of violations or abuses occurring in their activities. The capitalistic income seeking incentives of transnational or other highly performing corporations are not without great risks on human rights consolidation. Corruption worsens the risks factor wherein justice seeking options are hacked through delays and court inadmissibility manoeuvres. In worse stances, poverty and psychological ignorance over mutual socioeconomic benefits pave the way for outright exploitation on vulnerable populations and persons. For example:

a) Vulnerable community persons lacking knowledge and/or means are continuously exploited by greedy capitalistic companies and neglected or discriminated upon by corrupt community social support services. This is proven in a particular case wherein a multi-national telecom company ORANGE represented in Cameroun shamelessly and outrightly exploits a gathering of hundreds of rural widows and orphaned children without any material or financial compensation (E/CN.6/2018/NGO/2). Outrageously, the very transnational corporation fails to respond to their act and continue with business as usual in total impunity because of very insensitive and less influential local government social protection services that are incapable or lack the will to investigate and impose firm sanctions.

b) Most shockingly, because of the economic power of transnational corporations and their inter-active liaison relationship with high ranking executive and judiciary personalities, they often undermine the rights-based activism prowess of civil society organizations and blatantly utilize them and then damage their moral integrity without remorse or regrets (E/CN.5/2018/NGO/2).

Judicial Corruption an Intolerable Abuse on Human Rights

1 Declaration on the Right to Development, GA resolution 41/128 adopted on 4 December 1986

The oddments of corruption, no matter how lofty or lowly it is carried out, is an institutionalized destruction of human co-existential values thereby a denial of the very existence or usefulness of the Human Rights. Corruption is an insidious plague that has a wide range of corrosive effects on societies. It undermines democracy and the rule of law, leads to violations of human rights, distorts markets, erodes the quality of life and allows organized crime, terrorism and other threats to human security to flourish.2

The Universal Declaration of Human Rights sets forth in its introductory statement for the recognition of the inherent dignity, equality and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world whereas the highest aspiration of the common man lays in his freedom of speech, belief and from fear which as human rights should be protected by the rule of law.3 The independence of the judiciary strengthens the perseveration of the dignity of the office of judges and the impartiality of their decisions which in the highest esteem is to safeguard the values of human rights thereby fostering justice and peace in the world. However, the evil of corruption has also plagued this judicial institution in a number of ways which is very detrimental in protecting vulnerable classes of the society.

- Judicial corruption extends from pretrial investigations and procedures through the trial proceedings and settlement, to the enforcement of decisions by court bailiffs or the executive.4 Through her confined assessment to judicial corruption involving judges, prosecutors and members of the legal profession, the Special Rapporteur recognized that corruption among the police, court personnel and officials in charge of enforcing judicial decisions is an issue of utmost importance (A/67/305).

- Typically, Favouritism is a chronic form of judicial corruption that needs firm redress. Considerably, favoring a particular law firm, close association with lawyers, the promise of opportunities after retirement from either government sources or public corporations, or consultancy work from law firms are the most insidious forms of corruption, and may be more difficult to prevent and detect (A/67/305, para. 23). For example, in a High Court suit no. HCMB/08/17 of Mezam in Bamenda - Cameroon, the presiding judge is assessed to have taken sides with a prosecuting law firm in order to deprive a poor widow from her late husband's estate by outrightly refusing to examine exonerating evidence that would have lead to a contrary pre-planned court ruling. Appallingly, during the hearing process the victimized widow was heartlessly subjected to cruel treatment and torture that highly degraded her personal integrity and her physical and mental health.

- Other forms of judicial corruption such as bribery can occur at every point of interaction in the judicial system: court officials may extort money for work they should do anyway; lawyers may charge additional "fees" to expedite or delay cases or to direct clients to judges known to take bribes for favorable decisions.5 In other cases, judges themselves can accept bribes to delay or accelerate cases or accept or deny appeals; they can actively seek to influence other judges or simply decide a case in a way that is not in accordance with established legislation and rules (A/67/305).

- Also where corruption raises the cost for judicial services, which keeps on rising through competition, making it impossible for some to afford litigation, the corrupted legal process punishes the poor and violates human rights.

Eradicating the Evil of Corporate Impunity and Judicial Corruption on Human Rights

With respect to transnational corporations there is great need to put an end to impunity by invoking States' obligations to promote and protect all human rights against violations or abuses within their territory and/or jurisdiction by third parties and guarantee access to justice and to effective remedies to every person and especially vulnerable peoples. State Parties including legislative, executive and judiciary should adopt adequate measures to ensure that any violation or abuse of human rights, irrespective of who may ultimately be the bearer of responsibility for the violation, gives rise to legal actions and opens the way for victims' claims for damages and remediation (A/HRC/RES/26/9).

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2 United Nations Office on Drugs and Crime, Foreword, by the Secretary-General to the United Nations Convention against Corruption, 2004

3 The Preamble of the 10th December 1948 Universal Declaration of Human Rights

4 Transparency International, *Global Corruption Report 2007: Corruption in Judicial Systems*

5 Ibid

Reflecting judicial corruption, it is important to note that it erodes the principles of independence, impartiality and integrity of the judiciary; infringes on the right to a fair trial; creates obstacles to the effective and efficient administration of justice; and undermines the credibility of the State's entire justice system. Accordingly, States should criminalize and penalize corruption (see General Assembly resolution 58/4, article 15), and any existing criminal immunity of corrupt judges and prosecutors should be lifted; they should not be "above the law", as total immunity would only nourish distrust among the public with regard to judges and prosecutors in the justice system (A/67/305).

Justice must not merely be done but must also be seen to be done

Stand up for Human Rights!

United Nations A/HRC/37/NGO/53

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Agenda item 4
Human rights situations that require the Council's attention

Written statement* submitted by the Khiam Rehabilitation Center for Victims of Torture, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[1 February 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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1801742

Please recycle

Bahrain: Trial violations of opposition leader Sheikh Ali Salman on charges of spying for Qatar because of an initiative of the United States of America*

The Bahraini authorities announced on 11/27/2017 the start of the trial of Bahraini opposition leader Sheikh Ali Salman, head of Al-Wefaq, the biggest parliamentary bloc (2006), on charges of spying for Qatar. The trial is based on malicious charges targeting freedom of political action and freedom of expression, and continues the steps toward closing down the democratic space in the country, which is witnessing a serious human rights crisis. The details of the case are as follows:

The accused:
1- Sheikh Ali Salman Ahmed Salman (Secretary General of Al-Wefaq National Islamic Society)
2- Sheikh Hassan Ali Jumua Sultan (former MP of the Al-Wefaq parliamentary bloc)
3- Ali Mahdi Ali Al-Aswad (former MP of the Al-Wefaq parliamentary bloc)
The charges brought by the Public Prosecution against the accused according to the lawsuit are the following:
1. Spying for Qatar.
2. Disclosing military secrets to Qatar.
3. Spreading false news that harms public security.
4. Accepting and receiving bribes and gifts from Qatar.
The penalty can be death or life sentence, according to articles 122, 125, and 126 of the Bahraini Penal Code, in addition to other articles that fall within the legal adaptation of the case.

Case Background

These accusations are based on the 2011 Saudi-US-Qatari initiative. Former Qatari Prime Minister, Sheikh Hamad bin Jassim, received a call from former Saudi Foreign Minister, Prince Saud al-Faisal, asking him to go to Bahrain to accompany him along with former US Assistant Secretary of State, Jeffrey Feltman, to work on resolving the crisis. After that, all the parties to the initiative arrived to Bahrain and met with the King. The American and the Qatari parties of the initiative contacted opposition leader Sheikh Ali Salman in the process of resolving the crisis, and Sheikh Ali Salman met with former US Assistant Secretary of State, Jeffrey Feltman. However, Sheikh Ali Salman did not meet with former Qatari Prime Minister, Sheikh Hamad bin Jassim, instead, he called him to talk about the initiative. That call was in March 2011 and revolved around discussing the initiative and asking for solutions to the crisis. These calls took place with the approval of the King of Bahrain. However, after the gulf crisis with Qatar occurred, the Bahraini authorities deliberately broadcasted trimmed audio recordings of the call, distorting it content. Also, the media played a provocative role, which breaches the presumption of innocence. Sheikh Ali Salman was accused of the previously mentioned charges; in addition, the right to a public trial was violated.
On November 23, 2011, the Bahrain Independent Commission of inquiry, chaired by Professor Mahmoud Cherif Bassiouni, confirmed in its report that there were a Qatari initiative to resolve the crisis in March 2011 before the attack on the Pearl Roundabout. On November 27, 2011, Bahrain's Foreign Minister praised Qatar's support for the official stance of Bahrain in a television interview on Al Arabiya channel.
Sequence of Hearings:
First Hearing:
On November 27, 2017, the first hearing was held in the presence of the defense, but Sheikh Ali Salman was not present due to illness and back pain. The hearing was postponed to two days later.
Second Hearing:
On November 29, 2017, the second hearing was held in the presence of the defense and Sheikh Ali Salman, who was dressed in the prison uniform. The defense asked the court to allow Sheikh Salman to have a copy of the case file inside his prison cell with papers and pens and give him a period of time to study it. The hearing was adjourned to December 28, 2017.
Third Hearing:

On December 28, 2017, the hearing was held in the presence of the defense and Sheikh Ali Salman. The defense renewed its request to allow Sheikh Ali Salman to receive the case file, and also requested to summon the prosecution witnesses whose testimonies are stated in the case file. The court ordered to hand over Sheikh Ali Salman a complete copy of the case file and CDs and to provide him with the "necessary" tools to examine them, after the defense requested, during the hearing, to provide him with a laptop so that he could see the contents of the CDs. The hearing was postponed to January 4, 2018.

Fourth Hearing:

On January 4, 2018, the fourth hearing was held in the presence of the defense and Sheikh Ali Salman. The hearing was designated for hearing and questioning two prosecution witnesses, the first witness, Officer Abdullah Al-Arabi, and the fourth witness, Abdullah Al-Howaihi. The defense team submitted written questions for the second and third witnesses, who will be questioned by the court in a secret hearing without the presence of the lawyers or Sheikh Ali Salman. The hearing was postponed to January 25, 2018.

Fifth Hearing:

On January 25, 2018, the fifth hearing was held in the presence of the defense and Sheikh Ali Salman. The court presented a phone conversation that has been cut. Sheikh Ali Salman said that the call was trimmed and demanded that the sound recordings be shown in full because cutting them lead to distorting their content. From the hearing proceedings, it was revealed that the Ministry of Interior acquired 45 sheets that Sheikh Ali Salman sent from his prison to his lawyer, but the Ministry of Interior did not hand them over to the defense. Note that the Ministry of Interior is a party to this case. Afterwards, the Fourth High Criminal Court decided to postpone the hearing to February 19, 2018 in order to bring the recordings of the phone call between Sheikh Ali Salman and the former Prime Minister of Qatar.

General Notes

The charges in the case were not based on proper material evidence, and the evidence was falsified by cutting and forgery even in the papers. The witnesses who were used by the prosecution are directed by parties related to the authorities. Nevertheless, their testimonies were based on assumption and surmise, which makes all their testimonies judicially unreliable. However, since the whole case is related to freedom of expression and freedom of political action, the judiciary is bias to the prosecution and the security apparatus, as happened in the previous case, in which Sheikh Ali Salman was convicted.

Moreover, the judicial authority intentionally referred the case to the same court and judge that sentenced Sheikh Ali Salman in the previous case to 9 years in prison (and then they were amended to four years). In addition, the prosecutor is also the same one who handled the previous case, even though the previous case was widely criticized by UN experts, international human rights organizations and the Office of the High Commissioner for Human Rights.

Based on the abovementioned, we call for the following:

1. The Member States of the Human Rights Council to urge Bahrain to cancel the trial of Sheikh Ali Salman and repeal his conviction in a previous case that was criticized by the international human rights community, and especially United Nations experts, who considered his detention to be arbitrary, and immediately release him.
2. The Member States of the Human Rights Council to urge Bahrain to respect freedom of expression and association and to stop prosecutions of political institutions and opposition leaders for political and malicious reasons.
3. The Member States of the Human Rights Council to urge Bahrain to allow UN rapporteurs to visit Bahrain, including the Special Rapporteur on the rights to freedom of peaceful assembly and of association, and the Special Rapporteur on the independence of judges and lawyers.
4. The Member States of the Human Rights Council to urge Bahrain to allow the High Commissioner to visit Bahrain without restriction, to open an office with full powers and to stop retaliatory procedures against human rights defenders.

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*Bahrain Forum for Human Rights (BFHR), an NGO without consultative status, also shares the views expressed in this statement.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Khiam Rehabilitation Center for Victims of Torture, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

[1 February 2018]

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Please recycle

Death Penalty in Bahrain: Failure of Justice:Three Bahrainis were Executed on 'Confessions' Extracted under Torture*

Preface:

Death penalty is regarded as one of the extremist convictions. It is also one of the crucial sentences as almost all human rights organizations call for outlawing death penalty. These organisations strongly believe that no individual has the privilege to violate the sanctity of others' right to life. Although (130) country worldwide cease or impose a moratorium on execution, it is still legalized in certain countries.

Death penalty is still confirmed in the kingdom of Bahrain. Dozens of pro-democracy citizens; who peacefully demonstrate against the repressive government, were sentenced to death. They were prosecuted in martial courts throughout the emergency period, in 2011. Then, the civil courts continue to issue death penalties against many citizens, while the government turns blind eyes on the so called "Security Forces" men who are deliberately involved in murdering innocent civilians, whether torturing them while in prisons or targeting them by shotguns firing birdshots, during the peaceful protests, on daily basis.

Indeed, right to life is a substantial and holy right in International Laws and charters. Besides, almost; all humans rights organizations seek to insure this right, and to restrict all sorts of violation against it; particularly death penalty.

Transcending the Conditions of Fair Trial

The office of the defendants' lawyer issued a statement in which he raised doubts about referring the case to the court urgently, followed by the consecutive press conferences of both Bahrain's Interior Ministry and Public Prosecution. The personal photos of the defendants were published, in addition to extracts of their confessions accompanied with unprecedented political statements and security measures. Al-Tajerconsidered that these steps incited widespread and critical public opinion, and it exposes the flagrant Bahraini Justice System that disregard its international obligations of fair trail, and the claims to respect constitutional and judicial principles which stress that the defendant is innocent until his is proven guilty through fair and impartial trail.

He pointed that the court had refused to disclose a hard copy of the trail to the defences, disregarding the complaints of the staff who evidenced their rejection in one of the proceedings. The court denied the complaints, and the lawyers were not given access to the evidences in order to take possible defensive actions.

It's noteworthy to report that "Al Rawabi School" where Abbas Al Samiea; one of the three executed men, had issued an official statement confirmed that he was in the school at the time of the blast. However, family, neither his lawyer were able to present this statement which confirms his innocence, as both the Public Prosecution and the court of appeals refused to be submitted.

Torture and harassment

A statement issued by Amnesty International, in 11 January 2017, after the declaration of death sentence, stated that "The ten defendants, in the case of the murder of the Emirati officer, had no chance to call both their parents and lawyers, and they were severely beaten, within three weeks of investigation in the Criminal Investigations Department. Sami Al Meshymea'h and Abbas Al Samiea told their families that they were subjected to electric shocks, severe physical beatings, cigarettes' burns, prohibition of sleep, and sexual harassment."

Later, on 15 February 2017, and after the implementation of the verdict, the organization stated that "The death penalties were carried out amid allegations of torture and after unfair trial."

The two UN Special Rapporteurs on summary executions; Agnes Callamard and Nils Melzer, said in accordance to the information they accessed that "the death penalty was implemented after an illegal procedures which violate the international standards. As what was reported, the three men were allegedly tortured while in prison and coerced to confess their 'crime' under intense beatings (as from electric shocks and sexual harassments). In addition to preventing them from having advocates to support them before the judicial court, in accordance to the allegations."

The lawyer Manar Maki, on 30 April 2014, reported after the first trial session, "The two brothers; Sami and Reda Al Meshymea'h, and Taher Al Samiea spoke about the torture exercised against them, such as sexual harassment and electric shocks." She further said, "Sami and Reda Al Meshymea'h mentioned that sharp instruments were inserted into

their ears which cause them deficient in the sense of hearing. Taher Al Samtea had informed that he was tortured in the Criminal Investigation Department and in the Public Prosecution building."
Mother of Sami Al Meshyma'h pointed that after releasing her son in 2011, one of the officers told him that they will fabricate to him another critical accusation. In a footage, published in February 26 2015, after the declaration of the death penalty, she spoke about how severely her son was tortured, in which his teeth were crashed, he was placed in a freezer, and they poured over him cold water and ice to enforce him to confess that he involved in the murder of the Emirati officer in March 3 2014.
Ali Al Singias's mother assured that although the Public prosecutor did not investigate with her son on the issue of the Emirati officer Tarek Al Chehi, he was sentenced to death with the two others. His sister said in a footage, after the arrest of her brother, that he was early beaten, and the security forces asked him to work as a mercenary spy but he refused. As a punishment he was accused of various criminal issues including the murder of the Emirati officer.

The Violations after the Verdict

After the implementation of the three death penalties by the Bahraini authorities, the families of the murdered martyrs issued a statement on the violations they faced. "The regime was not satisfied with torturing, targeting, fabricating accusations, and finally assassinating our sons. It continued its brutal systemic plot through performing various sorts of revenge and vengeance acts, even after murdering them.

Ongoing death penalties

Bahrain had received 17 recommendations regarding the death penalty in its Universal Periodic Review 2017, however, death sentences were issued repeatedly.
During the last two years, Bahrain has sentenced 24 people to death, 4 of whom have already been executed (3 aforementioned in this report and one expatriate on 23 March 2017). 4 citizens been sentenced to death in 2016 and 11 of the cases were sentenced after the UPR session in May 2017. Among the 24 cases, there are 6 civilian nationals who were sentenced in military court on 25 December 2017. They also had their citizenship revoked.
The hearings themselves violated the principles of fair trial and the defendants had been subjected to torture and ill-treatment preceding the rulings. The judicial authority refused to investigate the defendant's allegations of torture and ill-treatment while in custody. Some of them had been forcibly disappeared for over a year, with no access to family or lawyers. Instead, the security authorities threatened the prisoners with further degrading treatment if the violations were revealed to the media or human rights organizations.

Recommendations

Therefore, we call upon all the international human rights organizations and foundations, NGOs, legislators and the International Community to thoroughly cooperate in saving the lives of dozen of prosecuted, who are sentenced to death in Bahrain. We further demand to abolish implementation of the issued death penalties, or to postpone it. Besides, we do call to stop taking advantage of the law to punish the opposition public, and to take serious actions against the political systems which lack justice, devalue human rights and exploit the judiciary system, specifically to silence the opponents through biased and serious verdicts, such as the death penalty.

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*Salam for Democracy and Human Rights, an NGO without consultative status, also shares the views expressed in this statement.

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[1 February 2018]

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Please recycle

Targeted Persecution of Shiite Clerics in Bahrain*

Introduction

The government of Bahrain has continued to violate the rights of religious clerics. 156 Shiite religious leaders have been summoned, only for exercising their right to freedom of speech, and for their ideological tendencies or political views. 89 clerics have been arbitrarily arrested by security forces, and 50 religious leaders have been sentenced in various cases to harsh sentence ranging between death penalty, life imprisonment, citizenship revocation, and enforced deportation. As of January 2018, the Bahraini authorities sentenced 3 clerics (Maytham Omran Husain, Murtada Majeed Al Sanadi, and Habib Abdullah Al Jamri) to death and revoked their citizenship. 8 clerics have sentenced to life imprisonment, 4 of whom were stripped of their nationality. 5 have sentenced to 15 years of imprisonment, 4 to 10 years, and 4 to 5 years. 11 clerics were sentenced to one-year imprisonment, and 5 have been suspended from giving religious speeches.

In total, 8 religious leaders were sentenced to life imprisonment, and 19 religious leaders were stripped of their nationality without fair trial that complies with international treaties and charters. The total number of reported violations against Shiite clerics in Bahrain counted 313 cases. The augmented targeting of Shiite clerics highlights the lack of serious efforts towards a protection of freedom of religion and belief in the country. This also indicates that the Bahraini authorities have intended no meaningful initiatives for the reform process in human rights.

The escalation of violence against Shiite clerics

Since the pro-democracy revolution in 2011, systematic violation has been occurred in Bahrain against Shiite clerics, who have supported peaceful protests and democratic reforms. A group of Shiite clerics have been targeted by the government for their speech and sermons.

Shiite religious associations and institutions were forced to shut down, including the Islamic Awareness Society and the Islamic Resalah Society in June 2014, and between 2011 and 2017, the Bahraini authorities prevented 6 clerics from giving sermons and leading religious rituals.

Moreover, the prosecution and harassment of religious clerics, who engage in religious and social activities, have systematically enhanced. In 2017, the number of arbitrary interrogations and arrests of clerics has sharply increased. Shaikh Maytham Al Salman, for instance, was summoned 24 times only in 2016. It is worth mentioning that these summonses are followed by harsh human rights abuse during the investigation, such as psychological and physical torture, long-hours of suspension, as well as personal and religious insults. Many of them have been also arbitrarily arrested. Since 2011, 73 Shiite clerics were arrested for unclear reasons. Furthermore, the Bahraini courts have made malicious and unfair sentences against these clerics.

Revocation of Nationality

The most serious violation against the rights of religious clerics is the revocation of their nationality. The Bahraini authority has used the revocation of citizenship as a tool to restrict the freedom of religion and belief. By late 2017, 19 Shiite clerics were stripped of their nationality because of their religious orientation, ethnic affiliation, and their political position. This includes Shaikh Isa Qassim, Hussain Najati, Muhammad Sanad, Alawi Al Beladi, and Ahmed RedhaShakeeb.

This violates Bahrain's commitment to protect basic human rights of its citizens. Article 17 of the Constitution of 2002 states that "Bahraini nationality shall be determined by law. A person inherently enjoying his Bahraini nationality cannot be stripped of his nationality except in case of treason and other cases as prescribed by law." Rendering clerics stateless also violates their right to nationality, as guaranteed in Article 15 of the UDHR, which states that "Everyone has the right to a nationality." and "No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality."

The case of Shaikh Isa Qassim

Ayatollah Shaikh Isa Qassim, one of the most prominent religious leaders in Bahrain, is one of such cases of prosecution against religious leaders. Shaikh Isa Qasim was first targeted by the government in 1984, after the dissolution of the association he had headed, called Islamic Awareness Society. Although he was released later, the government prevented Shaikh Isa Qassim from travelling outside Bahrain, which lasted until 1991.

Since May 2013, a series of targeting started against Shaikh Isa Qassim. On June 2016, the Ministry of the Interior issued a statement declaring the revocation of his Bahraini nationality, accusing him of "causing damage to the interests

of the state." Soon after the announcement, a large number of citizens gathered in front of his house in Duraz, in protest of the arbitrary decision against the Shaikh Isa Qassim. The security forces began crackdown on protesters, which resulted in several death and injuries. The government has blocked entrances of the village and cut down the internet service until now.

Violation of domestic and international law

By using these methods, the government of Bahrain has violated its commitment to protect basic human rights. The Constitution of Bahrain states in Article 22 that "freedom of conscience is absolute, and the State guarantees the inviolability of places of worship, freedom to perform religious rituals, religious processions and meetings according to the customs observed in the country." The use of violence also violates the UN Universal Declaration of Human Rights, which states in Article 18 that "everyone has the right to freedom of thought, conscience and religion," as well as the International Covenant on Civil and Political Rights, which recognised that "the right of peaceful assembly shall be recognised. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others."

Recommendations

To the government of Bahrain:

- Release detained Shiite clerics and abolish cases against them relating to freedom of speech and opinion and provide compensation to these persons.
- Ensure prompt and thorough investigations into all cases of torture and abuse during interrogation or detention.
- The commitment of the Government of Bahrain to respect religious freedoms and freedom of expression practiced by religious clerics and preachers as set forth in the International Covenants on Human Rights.
- Prohibit torture and humiliation of detainees or those summoned and the Government's obligation to summon through the Public Prosecutor's Office and through official memoranda.
- End the discrimination practiced by the prosecution witnesses in cases of public speaking and political opinion.

To the international community:

- Urge the Government of Bahrain to respond promptly to the request for the visit of UN Special Rapporteurs, in particular the UN Special Rapporteur on Freedom of Religion or Belief, the UN Working Group on Arbitrary Detention, the UN Special Rapporteur on the Independence of Judges and Lawyers, the Special Rapporteur on Torture and Other Cruel, inhuman or degrading treatment or punishment.
- Urge international organisations and the Human Rights Council to monitor trials of religious clerics who have been charged with ordinary criminal charges under the various articles of the Criminal Code to stop the systematic targeting of Shiite religious clerics and institutions of the Shiite community.
- Continue to discuss concerns with Bahraini government officials regarding religious discrimination, torture, and targeting Shia religious clerics on the basis of their political views.
- Recognize that the Government of Bahrain has violated the human rights standards set out in the agreements signed by the Government of Bahrain, as well as setting a clear timeframe for the reforms necessary to fulfil Bahrain's obligations and to release all persons convicted solely under the Penal Code and Terrorism and put an end to the arrest of Shiite clerics because of their beliefs and religious practices or political views.

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*Salam for Democracy and Human rights, an NGO without consultative status, also shares the views expressed in this statement.

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Please recycle

Grave Violations in Supressing Duraz Peaceful Assembly in Bahrain*

Introduction

In June 2016, the government of Bahrain charged Sheikh Qassim, the highest religious authority of Shia population in Bahrain and the spiritual leader of al-Wefaq, the largest opposition group, of 'money laundering,' including illegal collection of donations and their misappropriation to provoke sectarianism and violence.

Soon after, peaceful sit-in protests around his house commenced against the government's aggressive political, security, and pecuniary measures in Duraz, in solidarity with Shaikh Qassim revoking his nationality and prosecuting him decided to peacefully express their views and positions. In order to protect him from possible reprisal by the authorities, many citizens gathered and held a sit-in around the Shaikh Qassims' house.

Since then, security forces subsequently have sieged the area, whose population reaches 20,000, closing off all main routes into and out of Duraz and installing search-points at two open entrances. By implementing unnecessary restraints on peaceful assembly, Bahraini authorities have criminalised freedom of assembly and expression.

The escalation of violation

Since the very beginning of the open-air sit-in, the Bahraini government tightened security and besieged Duraz from every side. Security forces set up checkpoints at all entrances of the area, staffed with police who prevent non-Duraz residents from entering. Police blocked off nearly all entrances to the village and established checkpoints at the remaining two main entrances, excessively restricting the right to freedom of movement of Duraz's residents, business owners and visitors. Since May 2016 to date, the authorities have banned the Friday Prayer in Duraz's Imam Al-Sadiq mosque, the largest Shiite mosque in the country, where Sheikh Isa Qassim used to lead the worshipers. The authorities prevented worshippers and clerks from accessing the area and performing the prayer.

Communication rights, which involve freedom of opinion and expression, were equally violated. The intensified strict measures, including Internet blackout is taken by the authorities on daily basis, in Duraz, since June 2016, approximately from 7:p.m. to 1:00 a.m.

The Al Wasat Newspaper mentioned that disrupting Internet services has increased since the security forces raided the village resided by 20.000 citizens, adding that the Internet access is cut off for 12 hours daily. This act aimed at preventing the residents from informing the local and public opinion of the violations committed against them.

The raid on Duraz is one of a series of human rights violations, committed by the security authorities against the residents, since June 2016, including violations on the religious freedom, obstruction of the right to freedom of movement, internet blackout, repression of protesters, excessive use of internationally prohibited weapons and tear-gas bombs, etc.

The government of Bahrain did not investigate on the raid on Duraz, which is a clear violation of its obligations, in particular, its commitment to implement the recommendations of the Bahrain Independent Commission of Inquiry (BICI) and the Universal Periodic Review (UPR).

The crackdown on Duraz and the death of protesters

The reprisals against Sheikh Qassim has led to further grave violations. On January 26, 2017, masked, plainclothes officers raided the peaceful sit-in outside his home in Duraz, fatally wounding 18-year-old Mustafa Hamdan. MOI officials infringed upon Hamdan's right to health when they did not allow prompt medical care, he needed to survive, for his injury. He died on March 24, two months after security forces fired at him. Furthermore, on May 23 2017, the security forces conducted brutal crackdown on Duraz, which resulted in the death of five citizens – who are Muhammad Kathem Zain Al Deen, Ahmad Al A'asfur, Muhammad Hamdan, Muhammad Al Ekri and Muhammad Al Sari.

Many Bahrainis believe that these victims were executed in defense of his religious beliefs, which should already be defended by the government of law and justice, as Geneva Convention IV, Article 10 of the 1977 Additional Protocol I provides that "in all circumstances, they shall be treated humanely and shall receive, to the fullest possible extent and with the least possible delay, the medical care and attention required by their condition. The freedom to practice religious rites without government interference is a fundamental human right. It is a civil right as well, basically

protected by the Bahraini Constitution, and the international treaties that Bahrain has ratified. Consequently, the government cannot prevent any citizen from worshiping in a chosen manner. This right not only gives citizens the freedom to practice their religious rites and beliefs, but it also prevents the government from interfering with how they practice them.

Violation of domestic and international law

The repression on Duraz and the collective punishment against protesters are a severe violation of Article 19(B) of the Bahraini Constitution, which stipulates that "no person shall be arrested, detained, imprisoned, searched or compelled to reside in a specified place, nor shall the residence of any person or his liberty to choose his place of residence or his liberty of movement be restricted, except in accordance with the law and under the supervision of the judicial authorities," as well as Article 12(1) of the International Covenant on Civil and Political Rights (ICCPR), which stipulates "Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence." Article 13(1) UDHR also stipulates that "everyone has the right to freedom of movement and residence within the borders of each state/"

Recommendations

To the government of Bahrain:

- Accountability of all officials responsible or extrajudicial killings of the 5 victims during the raid on Duraz.
- Adopting a serious solution to deal with the outstanding political and human rights issues that are causing instability in the country.
- Restore all arbitrarily revoked citizenship and amend the citizenship law to restrict these practices.
- Remove the restrictions on the right to assembly and other regulations that forbid citizens from expressing their opinions, without fear of reprisal.
- Fully and transparently, ratify and implement the ICCPR, which protect civil rights and freedoms, and to adhere to international standards of human rights.
- Release and/or drop all charges against human rights activities and members of civil society organisations, prosecuted for their work, and for exercising the rights to free expression, association, and assembly.

To the international community, to urgently exercise their active role to:

- Break the security siege on the village of Duraz, and end the house arrest imposed on Ayatollah Qassim.
- Open a transparent and independent investigation, in which independent civil society organisations are participated, to hold accountable those involved in the killing of five peaceful protesters, and to compensate the victims.
- End the violation against public freedom, and putting an end to the house violation taking in the village of Duraz.
- End the excessive use of force while dealing with peaceful demonstrations.
- Stop the prosecution of the participation in the Duraz peaceful assembly.
- Find a serious solution to deal with the human rights crisis by implementing the recommendations of the Independent Commission of Inquiry and the recommendations of the UPF according to a timetable and under the supervision of the United States of America.

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*Salam For Democracy & Human Rights, an NGO without consultative status, also shares the views expressed in this statement.

United Nations A/HRC/37/NGO/57

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Human Rights Council
Thirty-seventh session
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Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Association Miraisme International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

[1 February 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

Freedom of Religion or Belief in the Global Compact for Safe, Orderly and Regular Migration

During the consultation period for the elaboration of the Global covenant on Migration, the Association Miraisme International presented a set of recommendations to diminish the vulnerability that migrant communities face in welcome and transit countries. Discrimination due to religion or race that must be faced by immigrants, especially in regions of North America and Europe is increasingly worrying and requires urgently global attention.

According to the annual report of the Human Rights Organization Watch, the United Nations High Commissioner for Human Rights, Mr. Zeid Ra'ad Al Hussein expressed his concern with the messages of some leaders and with the harmful effect caused in societies for using campaigns filled with intolerance and xenophobia, affecting migrants in different countries of Europe and America. An Example of this, during the last periodic review of Switzerland on November 9th, 2017, the Committee on the Elimination of Racial Discrimination expressed his preoccupation about the racist stereotypes promoted by members of right-wing populist parties and by the mass media, which have also included xenophobic content in politic advertisements. It is even worrying the lack of integral legislation against discrimination in Switzerland, according to the United Nations High Commissioner for Human Rights (UNHCR/ACNUR).1

To profess a religion different to the officially established in the country is, in some cases, a reason of social pointing and derision or even can be punished with persecution and death sentences, in the more extreme cases. The incitation of religious hatred is turning into one of the most preoccupying trigger of violence in the contemporary societies, together with the terrorist and atrocious attacks carried in name of religion. In this sense, migrants that profess a certain religion have been attacked and stigmatized by the welcome societies. Additionally, there is no control for cyberbullying which unleashes destructive criticism and incisive offense to migrants who practice any religion, violating their rights of freedom of religion or belief.

Recommendations:

Promotion of respect to the identity of the other and guarantee the full exercise of their rights in a framework of mutual respect and an expanded moral norm.

We recommend to include, in the Global Covenant for a safety, orderly and Regular migration, the design and implementation of security measures and the guarantee of the freedom of religion or belief of minorities. Furthermore, limits will be established between the discourse of hate and the freedom of expression. These measurements base on equity and respect, should apply to both, those who were born in the country and those welcomed in the immigration country.

It is also crucial to create an awareness-raising exercise involving all the actors of the society, where their responsibility may be evident for the image consolidated of the other. In this sense, it is necessary that the mass media are compromised, so that they become partners of this process and with their role of communicators, contribute to reduce the scenarios of discriminations against migrants.

Plurality and social convergence are useful and crucial tools that can build harmonic societies, based on the coexistence with respect, able to stimulate economic and social processes that belong to sustainable development; thus, reaching the goals addressed in the Agenda 2030. Therefore, the efforts of international entities must be focus on the attention of the migratory phenomenon from an integral approach, providing attention not only to economic and legislative topics but also to social inclusion, empowerment of migrants and the value of their contributions for the economic and social development.

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1 Human Rights Council (2017). The universal periodic review working Group. Period of session 28th. Report of the UN Office of the High Commissioner on Human Rights. Consulted on November 21, 2017 de: https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/256/55/PDF/G1725655.pdf?OpenElement

Welcome/immigration countries, must work to eradicate the new forms of discrimination or social exclusion against ethnic and religious minorities that are in these countries, so that the development of these communities is granted. Because if a culture or religious minority does not integrate to the dominant culture, the first one can be excluded and, in the long-term, can even disappear.

Secular or non-denominational states should promote impartiality and equality for all religions, instead of either imposing bureaucratic obstacles that are exclusive or stablishing secularism as a politic religion. In this way, the review of the local regulations as well as its effects on freedom of religion or belief of migrants in those communities is promoted.2

It is of great importance the construction of a neutral education based on universal values aim to build a society that accepts and values multiculturalism. Primary (in the higher grades) and secondary education institutions should promote the knowledge of cultural elements of their students, including religious beliefs and principles. In this way, respect and tolerance would be promoted from childhood and youth, avoiding bullying problems at school.

It is imperative that states legislate and report clearly on how to denounce and defend the freedom of religion or belief of all citizens, nationals and foreigners.

Empowerment of women influences directly on the reduction of violent extremism, given the role that women play in the familiar core. The experience "Mothers for life"3 is highlighted. In this line, it is crucial to encourage leadership of migrant women and to stablish tools for an effective inclusion in the community.

To introduce the study about religions in the basic curricular contents may ease the construction of more inclusive societies, since the relation student-community gets stronger in a not-dogmatic but investigative, conversational and analytic way. So, the students 'autonomy development is promoted based on social development facts of the different cultures.

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2 Palomino, Rafael, El laicismo como religión política (Secularism as Political Religion) (December 18, 2013). Volume in homenaje to Professor Andrés Ollero Tassara (in newspaper), Forthcoming. Available at SSRN: https://ssrn.com/abstract=2369360

3 German Institute on Radicalization and De-radicalization Studies (GIRDS). Mothers For Life. Consulted on April 24, 2016 en: http://girds.org/mothersforlife

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the European Centre for Law and Justice / Centre Européen pour la justice et les droits de l'homme, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

Requesting that the U.N. assist in the release of American citizen pastor Andrew Brunson from wrongful detention and imprisonment in turkey

1. INTRODUCTION

One of the principle aims of the United Nations (U.N.), as expressed in the preamble of the 1945 United Nations Charter, is 'to reaffirm faith in fundamental human rights [and] in the dignity and worth of the human person'1. It is for this reason that the United Nations Human Rights Council (UNHRC) holds member states accountable for those significant violations of human dignity that run contrary to this aim.

The European Centre for Law and Justice (ECLJ) would, again, like to draw this Council's attention to Pastor Andrew Brunson, an American citizen, who has been unjustly detained and imprisoned in Turkey for nearly a year and a half.

As the ECLJ previously informed this Council, Pastor Brunson was originally detained by Turkish authorities in Izmir on 7 October 2016, despite having committed no crime and having peacefully lived out his religious beliefs in service to the people of Turkey for over two decades. Pastor Brunson's case has not only caught the world's attention, but also that of President Trump, who himself has demanded Pastor Brunson's release on several occasions. However, as indicated by President Erdoğan's recent demand to swap Pastor Brunson for Fethullah Gülen, it seems Pastor Brunson has become a political prisoner and bargaining chip for Turkey.

As a founding Member State of the U.N., Turkey is obligated to adhere to norms set forth in the U.N. Charter, such as those requiring members '[t]o achieve international cooperation . . . in promoting and encouraging respect for human rights and . . . fundamental freedoms . . . without distinction as to [inter alia] religion'2. Pastor Brunson's detention appears to be related to his work as a Christian minister. By detaining and imprisoning Pastor Brunson because of his religious expression, peaceful association, and assembly of religious believers, Turkey is violating not only its obligations under the U.N. Charter, but its own Constitution, as well as Pastor Brunson's fundamental rights: freedom of religion and belief, freedom of expression, freedoms of peaceful assembly and association. Therefore, these violations concern not only Turkey, but every Member State and every agency of the U.N.

2. BACKGROUND

For 23 years, Pastor Brunson had worked openly on behalf of the people of Izmir, Turkey, serving as the pastor of the Izmir Resurrection Church, part of a small Protestant Christian community. Then, on 7 October 2016, Pastor Brunson arrived home to find a written summons to report with his passport to a local police station. Believing the summons was related to his routine application for a renewal of his residence visa, Pastor Brunson promptly reported to the Izmir police, only to be arrested and later told that he was to be deported, as he was considered a 'national security risk'. However, Pastor Brunson was never deported, he was instead transferred to the Harmandali Detention Centre and held for 63 days. During this time, he was denied access to an attorney and repeated requests by U.S. officials to visit Pastor Brunson were ignored, raising serious concerns.

On 9 December 2016, he was transferred to a prison facility as a suspect of alleged 'membership in an armed terrorist organization.', despite no evidence having been presented to justify the accusations against him. Moreover, in the documents repeatedly denying Pastor Brunson's appeals for release, the language alleging any involvement of Pastor Brunson in a crime remains ambiguous at best. In fact, it is admitted that there is merely a 'strong suspicion of the commission of a crime', and an 'inability to have sufficiently gathered evidence', even though Pastor Brunson has been

[1] U.N. Charter, Preamble.
[2] U.N. Charter art. 1, para. 3. *See also* Articles 55 and 56 of the U.N. Charter.

imprisoned for over a year. At the time of the ECLJ's previous oral intervention at the U.N. on behalf of Pastor Brunson, Turkey's Prime Minister stated, 'What we can do at this stage is accelerate the trial'3.

To date, Turkey has done nothing to honour that statement. The only change in Pastor Brunson's situation is that on 24 August 2017, the Turkish government accused him of allegedly committing additional crimes, these just as ludicrous as and even more disconcerting than the original, some of them carrying aggravated life sentences and requiring that the accused used force and violence. And once again, no evidence has been put forth to substantiate such ridiculous accusations, and although he has been allowed legal representation since 9 December, 2016, all discussions with his attorney are recorded, his legal file has been sealed, and he can be held without any formal charges for up to seven years, completely destroying the ability to prepare an adequate defense, and obliterating all rights to due process. It is important to note that Pastor Brunson has yet to be formally charged with any crime, as there has yet to be an indictment.

These actions violate Articles 9 (right to liberty and security of person), 14 (equality before the courts and tribunals), and 18 (right to freedom of thought, conscience and religion), of the International Covenant on Civil and Political Rights (ICCPR) to which Turkey is a signatory, as well as Articles 7 (equality before the law and equal protection of the law), 9 (no arbitrary arrest or detention), 10 (fair and public hearing), and 11 (presumed innocent until proved guilty) of the Universal Declaration of Human Rights (UDHR), and Article 5 (right to liberty and security of person & lawfulness of detention), and 6 (adequate time and facilities for the preparation of his defence) of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

Aditionally, Articles 10 and 24 of the Constitution of the Republic of Turkey protect the rights of everyone to equality before the law 'without distinction as to language, race, colour, sex, political opinion, philosophical belief, religion and sect'4, as do Articles 2 and 7 of the UDHR and Article 18 of the ICCPR. These rights include the freedom, 'either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching'5. Article 5 of the ECHR guarantees that no one shall be arbitrarily 'deprived of his libery', and Article 6 preserves the right 'to be informed promptly . . . and in detail, of the nature and cause of the accusation; (b) to have adequate time and facilities for the preparation of [a] defence'.6 Article 36 of the Constitution also protects the right to litigation 'before the courts through lawful means and procedure.' Turkey has violated all of these protections by arresting and detating an innocent pastor in prison for almost a year and a half without presenting any evidence, nor charging him with any crimes. All while his case is sealed, his conversations with his attorney are recorded, and he has had no opportunity to provide a defense.

3. REQUEST

One of the hallmarks of Turkey's proud history is the respect for all faiths and the rule of law. Thus, Turkey should respectfully be reminded of its continuing obligations under its constitution as well as the ICCPR, UDHR, and ECHR to respect and value the freedom of religion and rule of law. The ECLJ urges this Council to call upon Turkey to honour its obligations. The ECLJ further requests that the U.N. make every effort to ensure that Pastor Brunson is not only treated with great care, but that he is quickly released and allowed to return home to the United States of America without injury or delay.

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[3] Oren Dorell, *Turkish PM Considers Speeding up Trial of Jailed American Pastor*, USA TODAY (9 Mar. 2017, updated 8:14 PM), https://www.usatoday.com/story/news/world/2017/03/09/turkish-prime-minister-promises-speed-up-trial-jailed-american-pastor/98946590/.

[4] CONSTITUTION OF THE REPUBLIC OF TURKEY July 23, 1995, art. 10, and 'freedom of conscience, religious belief and conviction,' id. at art. 24, as do Articles 2 and 7 of the UDHR and Article 18 of the ICCPR.

[5] ICCPR, *adopted* Dec. 16, 1966, G.A. Res. 2200A (XXI), art. 18, U.N. Doc. A/6316 (*entered into force* Mar. 23, 1976).

[6] ECHR, art. 6 (Nov. 4, 1950), 213 U.N.T.S. 221.

4. CONCLUSION

The U.N. has long stood to protect the human rights of all people. In intervening on behalf of Pastor Brunson, the U.N. will once again demonstrate its commitment to ensuring that freedom of religion exists for all people, regardless of their faith.